

DIRECTOR'S REPORT ON THE PROPOSAL FOR A CHANGE IN SCOPE OF PRACTICE FOR LICENSED MENTAL HEALTH PRACTITIONERS

**From: Dr. Joann Schaefer, M.D., Chief Medical Officer
Director, HHS Regulation and Licensure**

**To: The Speaker of the Nebraska Legislature
The Chairperson of the Executive Board of the Legislature
The Chairperson and Members of the Legislative Health and Human Services
Committee**

Date: November 23, 2005

Introduction

The Regulation of Health Professions Act provides for an administrative process to review and present to the Nebraska Legislature recommendations regarding change in scope of practice of licensed health care professionals and the establishment of new credentialing for currently unregulated professions. This process (as defined in Neb. Rev. Stat., Section 71-6201, et. Seq.) is commonly referred to as a credentialing review. The Department of Health and Human Services Regulation and Licensure administers the Act. As Director of this Department, I am presenting this report under the authority of this Act.

Description of the Applicant Group and Summary of the Applicants' Proposal

The applicant group for this proposal consists of masters-level social workers, professional counselors and marriage and family therapists. The applicants propose that those currently licensed as Licensed Mental Health Practitioners (LMHPs) and who satisfy the standards defined in their proposal be allowed to diagnose and treat major mental disorders independently.

Under current statute, as defined in Section 71-1,307 Revised Statutes of Nebraska, LMHPs are not allowed to diagnose or treat a patient who has a major mental disorder prior to consulting with a qualified physician or a licensed psychologist.

Under the terms of the proposal those LMHPs who have graduated from nationally accredited programs and who wish to diagnose and treat major mental disorders must complete at least fifty percent of their client contact hours within the 3000 hours of required supervised experience with clients diagnosed under the major mental disease category. Supervision would be required to be provided by a qualified physician, a psychologist, or a qualified LMHP.

Under the terms of the proposal those LMHPs who graduated from non-nationally accredited programs would be allowed to independently diagnose and treat major mental disorders as soon as they complete 7000 hours (including the 3000 hours specified above) of supervised practice, including a minimum of fifty percent of client contact hours with clients diagnosed under the major mental disease category. Supervision would be required to be provided by a qualified physician, a psychologist, or a qualified LMHP.

Under the terms of the proposal those who satisfy the defined standards would be allowed to apply for a new credential known as Licensed Independent Mental Health Practitioner (LIMHP). Those LMHPs who wish to diagnose and treat patients with major mental disorders would be required to possess this credential.

Summary of Technical Committee and Board of Health Recommendations

The technical committee recommended against the original Licensed Mental Health Practitioners' proposal, citing concerns about potential new harm to the public. The Board of Health recommended in favor of an amended version of the proposal that the Board members felt better addressed the concerns about the potential for new harm. During a subsequent special meeting, the technical committee also reviewed the amended version of the proposal which had been developed after they had last met. The technical committee members approved this amended version of the proposal.

Recommendations on the Proposal Using the Four Criteria

The **first criterion** asks whether there is harm or potential for harm inherent in the current practice situation of the profession under review. I find that there is potential for harm inherent in the current practice situation of LMHPs pertinent to their role in the diagnosis and treatment of patients with major mental disorders. Current oversight requirements require LMHPs to refer patients who have a major mental disorder to either a psychologist or psychiatrist for diagnosis and treatment. This situation is fraught with lengthy delays that are potentially harmful to the patient.

The **second criterion** asks whether the proposal would be likely to create significant new harm to the public health and welfare that would cancel out any benefits that the public might accrue from the proposal. I find that the proposal does not satisfy this criterion. Significant improvements in the requirements pertinent to clinical experience have been made in the proposal since it was first submitted, but the absence in the final version of the proposal of clearly defined didactic components focused on major mental disorders raises concerns about the ability of the proposal to protect the public from non-nationally accredited LMHP practitioners.

The **third criterion** asks whether the proposal would create significant benefit to the public health and welfare. There would be some benefit to the public from this proposal in that it would facilitate more timely access to care. However, these benefits would not override the concerns about the educational background of non-nationally accredited LMHPs commented on in criterion two, above. I find, therefore, that the proposal does not satisfy this criterion.

The **fourth criterion** asks whether the proposal would be the most cost-effective means of addressing the problems or shortcomings of the current practice situation. I find that the proposal does not satisfy this criterion. The amended version of the proposal would improve access to care, but would not necessarily improve access to care that is effective. The educational shortcomings of the proposal identified in criterion two, above, raises concerns about the quality of the care that would be provided.

Additional Recommendations on the Proposal

The idea of allowing qualified masters level mental health practitioners to provide services to persons with major mental disorders independently is an idea worthy of serious consideration given the serious access to care issues characteristic of mental health services in Nebraska. However, as was stated in the discussions on the four criteria, above, the version of this idea that is currently under review has shortcomings that make it unacceptable as presently constituted.

I recommend that the improvements outlined in the items that follow this paragraph be made in the proposal in order to correct its shortcomings. The addition of these items to the current version of the proposal would address my concerns, and would make it possible for me to support the proposal.

- Item 1)** Graduate level course work in psychopathology needs to be a component of the 7000-hour training program, and would need to be focused on diagnosis and treatment of major mental disorders,
- Item 2)** Clinical experience requirements that are components of the 7000-hour training program pertinent to major mental disorders should be precisely defined, appropriately supervised, and clearly documented,
- Item 3)** Continuing competency requirements pertinent to major mental disorders need to focus on furthering the development of diagnostic and therapeutic skills of practitioners.

Discussion on the Additional Recommendations

Although I am recommending against the applicant groups' proposal as presently constituted, I do believe that there is need to make some changes in the way we regulate LMHP services to patients diagnosed as having major mental disorders in order to improve access to care. The current situation is too restrictive regarding these services and has the potential to significantly impede the timely delivery of care to those who need them.

The graduate level course work that I have recommended needs to be a component of, rather than additional to, the 7000-hour training program defined in the proposal. The didactic component needs to be taken from, and under the auspices of, nationally accredited educational institutions, and needs to focus on both the diagnosis of major mental disorders and the treatment of these disorders.

The clinical component of the 7000-hour training program needs to be established in such a way as to ensure that clinical experience in the diagnosis and treatment of major mental disorders is provided by qualified practitioners who are required to clearly document the training they provide. In this context training should be provided by either a psychologist or a psychiatrist.

The continuing competency requirements pertinent to major mental disorders need to be administered by, or under the auspices of, nationally accredited programs to ensure that these training requirements provide a high quality learning experience. Those LMHP's whose work includes diagnosis and

treatment of major mental disorders should be required to take a significant proportion of their continuing competency requirements in training that focuses on major mental disorders. The current proposal would require that six hours of the thirty-two hours required per renewal period be devoted to major mental disorders for these practitioners. Increasing the number of continuing competency hours devoted to these disorders to perhaps 9 or 12 is something that lawmakers should consider.